

§ 1.956-2T

26 CFR Ch. I (4-1-10 Edition)

States property as of December 31, 1963, and the amount taken into account for purposes of determining the aggregate amount of S Corporation's investment in United States property under paragraph (b) of § 1.956-1 is \$20,000. No depreciation is sustained with respect to the property during the taxable year 1963. During the taxable year 1964, S Corporation pays \$16,000 on the mortgage and sustains \$10,000 of depreciation with respect to the property. As of December 31, 1964, the amount taken into account with respect to the property for purposes of determining the aggregate amount of S Corporation's investment in United States property under paragraph (b) of § 1.956-1 is \$26,000, computed as follows:

Cost of property	\$100,000
Less: Reserve for depreciation	10,000
Adjusted basis of property	90,000
Less: Liability to which property is subject:	
Gross amount of mortgage ...	\$80,000
Payment during 1964	16,000
	64,000
Amount taken into account (12-31-64)	26,000

Example 3. Controlled foreign corporation T uses the calendar year as a taxable year and acquires on December 31, 1963, \$10,000 of United States property not described in section 956(b)(2); no depreciation is sustained with respect to the property during 1963. Corporation T's current and accumulated earnings and profits (determined as provided in paragraph (b) of § 1.956-1) as of December 31, 1963, are in excess of \$10,000, and T Corporation's United States shareholders include in their gross income under section 951(a)(1)(B) their pro rata share of T Corporation's increase (\$10,000) for 1963 in earnings invested in United States property. On January 1, 1964, T Corporation acquires an additional \$10,000 of United States property not described in section 956(b)(2). Each of the two items of property has an estimated useful life of 5 years, and T Corporation sustains \$4,000 of depreciation with respect to such properties during its taxable year 1964. Corporation T's current and accumulated earnings and profits as of December 31, 1964, exceed \$16,000, determined as provided in paragraph (b) of § 1.956-1. Corporation T pays no amounts during 1963 to which section 959(c)(1) applies. Corporation T's investment of earnings in United States property at December 31, 1964, is \$16,000, and its increase for 1964 in earnings invested in United States property is \$6,000.

Example 4. Foreign corporation U uses the calendar year as a taxable year and acquires before January 1, 1963, stock in domestic corporation M having as to U Corporation an adjusted basis of \$10,000. On December 1, 1964, pursuant to a statutory merger described in section 368(a)(1), M Corporation merges into

domestic corporation N, and U Corporation receives on such date one share of stock in N Corporation, the surviving corporation, for each share of stock it held in M Corporation. Pursuant to section 354 no gain or loss is recognized to U Corporation, and pursuant to section 358 the basis of the property received (stock of N Corporation) is the same as that of the property exchanged (stock of M Corporation). Corporation U is not considered for purposes of section 956 to have acquired United States property by reason of its receipt of the stock in N Corporation.

Example 5. The facts are the same as in example 4, except that U Corporation acquires the stock of M Corporation on February 1, 1963, rather than before January 1, 1963. For purposes of determining U Corporation's aggregate investment in United States property on December 31, 1963, U Corporation has, by virtue of acquiring the stock of M Corporation, acquired \$10,000 of United States property. Corporation U pays no amount during 1963 to which section 959(c)(1) applies. The reorganization and resulting acquisition on December 1, 1964, by U Corporation of N Corporation's stock also represents an acquisition of United States property; however, assuming no other change in U Corporation's aggregate investment in United States property during 1964, U Corporation's increase for such year in earnings invested in United States property is zero.

(2) [Reserved]

(e) [Reserved] For further guidance, see § 1.956-2T(e).

(Secs. 956(c), 7805, Internal Revenue Code of 1954 (76 Stat. 1017, 68A Stat. 917; (26 U.S.C. 956(c) and 7805 respectively)))

[T.D. 6704, 29 FR 2601, Feb. 20, 1964, as amended by T.D. 7712, 45 FR 52374, Aug. 7, 1980; T.D. 7797, 46 FR 57675, Nov. 25, 1981; T.D. 8209, 53 FR 22171, June 14, 1988; T.D. 9008, 67 FR 48025, July 23, 2002; T.D. 9406, 73 FR 38117, July 3, 2008]

§ 1.956-2T Definition of United States Property (temporary).

(a) through (b)(1)(v) [Reserved] For further guidance, see § 1.956-2(a) through (b)(1)(v).

(vi) Any aircraft, railroad rolling stock, vessel, motor vehicle, or container used in the transportation of persons or property in foreign commerce and used predominantly outside the United States. Whether transportation property described in this subdivision is used in foreign commerce and predominantly outside the United States is to be determined from all the facts and circumstances of each case.

As a general rule, such transportation property will be considered to be used predominantly outside the United States if 70 percent or more of the miles traversed (during the taxable year at the close of which a determination is made under section 956(a)(2)) in the use of such property are traversed outside the United States or if such property is located outside the United States 70 percent of the time during such taxable year. Notwithstanding the above, an aircraft or vessel (as the term is defined in § 1.954-2T(c)(2)(ii)) is excluded from U.S. property if rents derived from leasing such aircraft or vessel are excluded from foreign personal holding company income under section 954(c)(2)(A). See paragraph (e) of this section for the effective/applicability dates of this paragraph (b)(1)(vi).

(c) through (d)(1) [Reserved] For further guidance, see § 1.956-2(b)(1)(vii) through (d)(1).

(2) *Obligation defined*—(i) *Rule*. For purposes of § 1.956-2 of the regulations, the term “obligation” includes any bond, note, debenture, certificate, bill receivable, account receivable, note receivable, open account, or other indebtedness, whether or not issued at a discount and whether or not bearing interest, except that such term shall not include:

(A) Any indebtedness arising out of the involuntary conversion of property which is not United States property within the meaning of paragraph (a)(1) of § 1.956-2, or

(B) Any obligation of a United States person (as defined in section 957(c)) arising in connection with the provision of services by a controlled foreign corporation to the United States person if the amount of such obligation outstanding at any time during the taxable year of the controlled foreign corporation does not exceed an amount which would be ordinary and necessary to carry on the trade or business of the controlled foreign corporation and the United States person if they were unrelated. The amount of such obligations shall be considered to be ordinary and necessary to the extent of such receivables that are paid within 60 days.

See § 1.956-2(b)(1)(v) for the exclusion from United States property of obligations arising in connection with the

sale or processing of property where such obligations are ordinary and necessary as to amount.

(ii) *Effective date*. This section is effective June 14, 1988, with respect to investments made on or after June 14, 1988.

(e) *Effective/applicability date*. Paragraph (b)(1)(vi) of this section applies to taxable years of controlled foreign corporations beginning on or after May 2, 2006, and for tax years of United States shareholders with or within which such tax years of the controlled foreign corporations end. Taxpayers may elect to apply the rule of this section to taxable years of controlled foreign corporations beginning after December 31, 2004, and for tax years of United States shareholders with or within which such tax years of foreign corporations end. If an election is made to apply § 1.954-2T(c) to taxable years of a controlled foreign corporation beginning after December 31, 2004, then the election must also be made for paragraph (b)(1)(vi) of this section.

(2) *Expiration date*. The applicability of paragraph (b)(1)(vi) of this section will expire on July 1, 2011.

[T.D. 8209, 53 FR 22171, June 14, 1988, as amended at T.D. 9406, 73 FR 38117, July 3, 2008]

§ 1.956-3T Certain trade or service receivables acquired from United States persons (temporary).

(a) *In general*. For purposes of section 956(a) and § 1.956-1, the term “United States property” also includes any trade or service receivable if the trade or service receivable is acquired (directly or indirectly) after March 1, 1984, from a related person who is a United States person (as defined in section 7701(a)(30)) (hereinafter referred to as a “related United States person”) and the obligor under the receivable is a United States person. A trade or service receivable described in this paragraph shall be considered to be United States property notwithstanding the exceptions (other than subparagraph (H)) contained in section 956(b)(2). The terms “trade or service receivable” and “related person” have the respective meanings given to such terms by section 864(d) and the regulations thereunder. For purposes of this